

Attachment C



Determination of Non-significance (DNS)
Sabour SSDP
L10SH004

Date of Issuance: April 26, 2011

Project: The requested permit is related to construction of an approved short subdivision (DDES File No.: L03S0019). Lot one of the short subdivision, including the access, storm drainage outfall from lots one and two, and a portion of the joint use driveway are located within the 200-foot shoreline jurisdiction. Subsequent development anticipates demolition of the existing boathouse, repair-realignment of a bulkhead, construction of a single-family residence on proposed lot one, associated driveway, water and sewer connections, and other utilities, together with the necessary storm water outfall facilities necessary for short subdivision constructions within the shoreline jurisdictional area.

Location: The project site is located at 8175 Juanita Drive NE, Postal City Kirkland

Applicant /contact: Reza Mouhajer Sabour
P.O. Box 2401
Kirkland WA 98083

DDES SEPA Contact: Mark Mitchell, Project/Program Manager III
Phone No.: 206-296-7119
E-mail: mark.mitchell@kingcounty.gov

King County Permits: Shoreline Management Substantial Development Permit (SSDP)
L10SH004

Shoreline Environment: Urban
Existing Zoning: R-6, Single Family
Drainage Subbasin: Lake Washington, WRIA 8
Section/Township/Range: NE 36-24-04

Notes:

- A. This finding is based on review of the project site plan received April 19, 2010, and environmental checklist received September 2, 2010 and other documents in the file.
- B. Issuance of this threshold determination does NOT constitute approval of the permit. This proposal will be reviewed for compliance with all applicable King County codes, which regulate development activities, including Clearing/Grading code, Surface Water Design Manual, and Critical Areas Regulations.

C. The proposed project is currently being reviewed as an element of final engineering review of approved short subdivision L03S0019.

D. During the public review period several comments were received from a local residence by way of counsel, indicating deficiencies with the submitted SSDP application. In response the applicant provided additional information and clarification. DDES staff carefully reviewed both the comments and additional information and determined:

- a. The steep slope within the northerly half of lot one has been graded and altered in the past and does not now exist as a natural land form.
- b. The proposed development is vested under the King County SAO and not subject to the current code standards of the KCC 21A.24 and the King County Critical Areas Ordinance (CAO).
- c. The applicant's proposed driveway access to lot one traversing said slope is permissible. Review of this driveway design is under final engineering review as an element of final short subdivision approval (L03S0019).
- d. The existing stone bulkhead is undocumented and therefore was constructed without permits. Said bulkhead must be removed prior to the issuance of any building permit for a residences on lot one.

Threshold Determination:

The responsible official finds that the above described proposal does not pose a probable significant adverse impact to the environment.

This finding is made pursuant to RCW 43.21C, KCC 20.44 and WAC 197-11 after reviewing the environmental checklist and other information on file with the lead agency and considering mitigation measures which the agency or the applicant will implement as part of the proposal. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal.

The lead agency has determined that the requirements for environmental analysis, protection, and mitigation measures have been adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, as provided by RCW 43.21C.240 and WAC 197-11-158. The Department will not require further mitigation measures under SEPA beyond those available under existing local, state, and federal regulations.

Comments and Appeals:

The SEPA determination may be appealed in writing to the King County Hearing Examiner. Written comments or a notice of appeal must be filed with the Department of Development and Environmental Services (DDES) at the address listed below prior to 4:00 p.m. on May 13, 2011, and be accompanied with a filing fee of \$250.00 payable to the King County Office of Finance. Please reference the file numbers when corresponding.

If a SEPA Appeal is filed, the appellant must also file a Statement of Appeal with DDES at the address listed below prior to 4:00 p.m. on May 20, 2011. The Statement of Appeal shall identify the decision appealed (including the file number) and the alleged errors in that SEPA decision.

The Statement of Appeal shall state: 1) specific reasons why the decision should be reversed or modified; and 2) the harm suffered or anticipated by the appellant, and the relief sought. The scope of an appeal shall be based on matters or issues raised in the Statement of Appeal. Failure to timely file a Notice of Appeal, appeal fee or Statement of Appeal, deprives the Hearing Examiner of jurisdiction to consider the appeal.

Comment/appeal deadline: 4:00 p.m. on May 13, 2011
Appeal filing fee: \$250 check or money order made out to the
King County Office of Finance
Address for comment/appeal: King County Land Use Services Division
900 Oakesdale Avenue SW
Renton, WA 98057-5212
ATTN: Planning and Customer Services Section

Responsible Official:



Jarrod M. Lewis, Supervisor
Planning and Customer Services Section
Building and Fire Services Division

4/26/11
Date Signed

Date Mailed: April 26, 2011

Attachment D



King County

BUILDING AND FIRE SERVICES DIVISION
Department of Development and Environmental Services
900 Oakesdale Avenue Southwest
Renton, WA 98057-5212

Shoreline Management Substantial Development Report and Decision

Date of Transmittal: April 26, 2011

SUBJECT:

File No: L10SH004

Applicant: Reza Mouhatjer Sabour
P.O. Box 2401
Kirkland WA 98038

Consultant: D.R. Strong Consulting Engineers
Attn: Walter J. Shostak, P.E.
10604 NE 38th Place #101
Kirkland WA 98033
425-827-3063

Project Location: 8175 Juanita Drive NE, Postal City Kirkland

Project Proposal: The proposed project is related to construction of an approved three lot short subdivision (DDDES File: L03S0019). Lot one of said short subdivision, including the proposed access driveway, storm drainage outfall from lots one and two, and a portion of the joint use driveway are located within the 200 foot Shoreline Management Jurisdiction. Subsequent development anticipates demolition of the existing boathouse, repair/realignment of a bulkhead, construction of a single-family residence on proposed Lot one, associated driveway, water and sewer connections, and other utilities, together with the necessary storm water outfall facilities necessary for short plat construction within the Shoreline Jurisdictional Area.

Request: Shoreline Management Substantial Development Permit (SSDP)

Complete Application: September 29, 2010

Application Submitted: March 19, 2010

Waterbody: Lake Washington

Shoreline Statewide
Significance: Yes
Shoreline
Designation: Urban
Zoning: R-6, Single Family Residential

BACKGROUND:

Prior to the issuance of this report and decision, the complete written record contained in the subject file was reviewed. The record includes the applicant's submittal, notification forms, pertinent information included by staff and all correspondence and comments in response to the proposal.

FINDINGS:

1. The criteria for authorizing Shoreline Substantial Development Permits, as set forth in KCC 25.04.010, are incorporated into the findings by reference. The Shoreline Management Substantial Development Permit is being sought to construct the project described above within unincorporated King County.
2. The purpose of the SSDP request is to obtain consistency with the Shoreline Management Act of 1971 (RCW 90.58) and the King County Shoreline Management Master Program (KCSMP).
3. Pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C, the responsible official (DDSES) issued a threshold determination of non-significance (DNS) for the proposed development on April 26, 2011. This determination was based on the review of the environmental checklist received September 2, 2010, plans received April 19, 2010, and other supporting documentation and studies filed with the application, resulting in the conclusion that the proposal would not cause probable significant adverse impacts on the environment. Said documents are incorporated herein by reference.
4. The site is currently developed with a single family residence, detached garage, boat house, and dock. The total site area is approximately 42,014 SF (0.965 acres). The site slopes to the south at slopes ranging from 5 to 25% with isolated areas over 40%. Vegetation is primarily lawn and landscaping with a few scattered apple trees. The site's pre-developed impervious area consists of a single family residence (2,415 SF), paved driveway (4,414 SF), detached garage (1,432 SF), and decks (435 SF). The site's natural point of discharge is Lake Washington. There is an existing undocumented bulkhead along the shoreline.
5. The applicant has obtained approval to subdivide the site into three new single family parcels. All existing structures on the site will be removed. The existing driveway will be improved to meet King County Road Standards for the Joint-Use Access Tract and the conditions set forth by the approved road variance (L03V0071). A 12' storm-water

- conveyance system will collect all runoff generated by the driveway, roof and footing drains, discharging directly into Lake Washington. Since this site discharges into a receiving water body through a closed conveyance system, no runoff control is required. Lots two and three are located outside of the 200-foot Shoreline Jurisdictional Line. Lot one and its' access, and the storm drainage outfall from Lots one and two, and the JUD are located within the Shoreline jurisdictional area. The driveway to Lot one will also require retaining walls (rockeries), which will also be within the shoreline jurisdictional area.
6. The project is surrounded by single-family structures, boat houses, and docks, all typical for what is found in the Urban Shoreline designation of Lake Washington.
7. Applicable King County Shoreline Master Program Regulations:
- a. Purpose of the Urban Shoreline Environment Designation
KCC 25.16.010 "Purpose: The purpose of designating the urban environment is to ensure optimum utilization of the shorelines of the state within urbanized areas by permitting intensive use and by managing development so that it enhances and maintains the shorelines of the state for a multiplicity of urban uses. The urban environment is designed to reflect a policy of increasing utilization and efficiency of urban areas now under-utilized and to encourage multiple use of the shorelines of the state if the major use is water dependent or water related while at the same time safeguarding the quality of the environment."
 - b. KCC 25.16.030 "General Requirements: All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period. Collection facilities to control and separate contaminants shall be required where stormwater runoff from impervious surfaces would degrade or add to the pollution of recipient waters or adjacent properties."
 - c. KCC 25.16.190 Excavation, Dredging and Filling. Excavation, dredging and filling may be permitted in the urban environment, only as part of an approved overall development plan not as an independent activity provided:
".....C. Landfill or excavations shall be permitted only when technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired"
8. Applicable King County Shoreline Master Program Goal and Policies:
- The Shoreline Management Act of 1971 specifically exempts "construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or the use of his family..." from its permit requirements. However, even though single family homes are not considered substantial developments the intent of the Act has established the basis for planning and regulating them.

- General Policies:

1. Residential developments should be permitted only where there are adequate provisions for utilities, circulation, access, site layout and building design.
4. Residential development plans submitted for approval should contain provisions for protection of groundwater supplies, erosion control, landscaping and maintenance of the shoreline integrity.
7. The established velocity, quantity and quality of storm water discharge should be considered in terms of the sensibility of the proposed receiving environment. The disposal mode selected should minimize changes in infiltration, runoff and groundwater recharge.

COMMENTS:

On June 16, 2005, the applicant obtained preliminary approval for a three lot short subdivision (L03S0019). Said short subdivision is currently under going final engineering review. Through this final short subdivision review process the proponent will be required to demonstrate compliance with the provisions of the King County Surface Water Design manual. It is anticipated by DDES engineering review that such compliance will be achieved. Further environmental analysis will also occur at such time as a request for a building permit is sought for Lot one.

9. The applicant's proposal includes demolition of the existing boat house and reconstruction of the block bulkhead along the shoreline of the site. The applicant intends to retain the existing dock and launching rails. No permits or documentation exists that said bulkhead was ever legally established. Accordingly, the proposed development of Lot one must be viewed as not including established shoreline protection. In order to construct shoreline protection the provisions of KCC 25.16.180 must be satisfied (see attachment A). Pursuant to KCC 25.16.180 (D), shoreline protection is not an outright permitted use. As there is no legally established structure (residence) on Lot one at this time any future location of this residence must be designed without reliance upon the construction of a bulkhead to achieve its placement. Given this scenario, legalizing the present bulkhead cannot be authorized through the subject SSDP. Subsequent design of the Lot one residence may employ a "retaining wall" feature built above the Ordinary High Water Line (OHWL, 21.85 MSL) and away from the shoreline of Lake Washington (see KCC 25.08.100, bulkhead). In order to resolve the current code enforcement action (E0900440) the existing block bulkhead must be removed.
10. The proposed SSDP and previous short subdivision are vested under the provisions of the King County Sensitive Areas Ordinance (SAO). There are no wetlands associated with this project and the SAO did not regulate "aquatic areas" (see Attachment B).

11. The subject SSDP and the overall short subdivision development are vested under the provisions of the King County Sensitive Areas Ordinance (SAO) (See Attachment B). There are no wetlands on the subject property and the SAO did not regulate the "aquatic areas" of Lake Washington.
12. During the public review period several comments were received from a local resident by way of counsel, indicating deficiencies with the submitted SSDP application. In response the applicant provided additional information and clarification. DDES staff carefully reviewed both the comments and additional information and determined:
 - a. The steep slope within the northerly half of lot one has been graded and altered in the past and does now exist as natural land form.
 - b. The proposed development is vested under the King County SAO and not subject to the current code standards of the KC 21A.24 and the King County Critical Areas Ordinance (CAO).
 - c. The applicant's proposed driveway access to Lot one traversing said slope is permissible. Review of this driveway design is under final engineering review as an element of final short plat approval (L03S0019). [See finding 11, above]
 - d. The existing stone bulkhead is undocumented and therefore was constructed without permits. With reference to finding nine above, said bulkhead must be removed prior to the issuance of any building permit for a residences on Lot one.

OTHER CONSIDERATIONS:

1. The subject SSDP Notice of Application (NOA) describing the proposal was posted on the subject properties on October 28, 2010, and published in the Seattle Times on Wednesday, October 13, 2010, and in the Bothell/Kenmore Reporter on Friday, October 15, 2010. The public notice describing the SSDP proposal was mailed to property owners within a 500-foot radius of the subject property on October 18, 2010.

CONCLUSIONS:

1. Residential development is permitted in the urban shoreline environment, subject to the general requirements of KCC 25.16.030 and residential development requirements of KCC 25.16.100.
2. Grading is permitted in the urban environment subject to the provisions in KCC 25.16.190.
3. The application and supporting documentation for the SSDP provide a sufficient level of information from which to establish conditions to ensure that the proposed project will be compatible with the surrounding environment and meet the goals and regulations of the SMA/KCSMP.

4. The proposed project under the subject SSDP is an element of an approved three lot short subdivision (L03S0019). Said short subdivision is currently in final engineering review. A principal element of this review is drainage and access compliance.

ACTION:

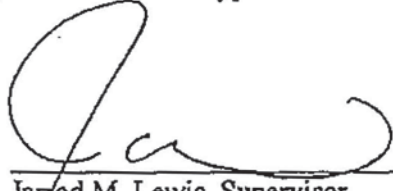
APPROVE Shoreline Management Substantial Development Permit No. L10SH004 subject to the following conditions:

1. Nothing in this permit shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinances, or regulations applicable to this project other than the permit requirements of the Shoreline Management Act of 1971.
2. This permit may be rescinded pursuant to Section 14(7) of the Shoreline Management Act of 1971 in the event the permittee fails to comply with any conditions thereof.
3. Construction pursuant to this permit may not begin or be authorized until twenty-one (21) days from the date of receipt of the final order of King County with the Department of Ecology or the Attorney General; or until all review proceedings initiated within twenty-one (21) days from the date of receipt have been terminated.
4. TIME REQUIREMENTS OF THE PERMIT (WAC 173-27-090). The following requirements shall apply to all permits:
 - a. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and the act, local government may adopt appropriate time limits as a part of action on a substantial development permit and local government, with the approval of the department, may adopt appropriate time limits as a part of action on a conditional use or variance permit: "Good cause based on the requirements and circumstances of the project," shall mean that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.
 - b. Where neither local government nor the department include specific provisions establishing time limits on a permit as a part of action on the permit, the following time limits shall apply:
 - i. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit. Provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.

- ii. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. Provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
 - iii. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.
 - iv. When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity: *Provided*, that an alternative compliance limit may be specified in the permit.
 - v. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired under subsection (2) of this section: *Provided*, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
 - vi. Local government shall notify the department in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.
5. Construction shall occur in conformance to the project plans stamped received by King County DDES on April 19, 2010.
6. Any subsequent changes to the approved shoreline plans may require the applicant to obtain a new shoreline permit or a revision to this shoreline permit pursuant to WAC 173-27-100.
7. A copy of the approved shoreline plans shall be kept on-site at all times during construction.

8. Within 30 days after completion of the work, at least six (6) photographs taken from different directions shall be provided to DDES – Shorelines.
9. The project shall employ Best Management Practices for temporary erosion and sediment control to minimize turbidity and siltation as found in the Regional Road Maintenance ESA Program Guidelines and the King County Surface Water Design Manual.
10. Conditions of King County Short Subdivision L03S0019 shall be considered conditions of this shoreline permit, and the applicant shall abide by any conditions set forth therein.
11. Prior to construction, silt fences shall be placed, as appropriate, along the perimeter of the construction zone. Appropriateness of fencing and location shall be approved and verified by King County staff prior to commencement of any clearing, grading, or construction activities.
12. Construction methods shall emphasize the use of hand tools to minimize vegetation and soil disturbance adjacent to shoreline habitat. Care shall be taken to avoid material spillage into the adjacent waters of Lake Washington.
13. If required, a Hydraulic Project Approval (HPA) shall be obtained from the Washington State Department of Fish and Wildlife (WDFW) prior to any work. Any conditions of the HPA shall be considered conditions of this shoreline permit.
14. If required, a U.S. Army Corps of Engineers Permit "Corps Permit" shall be obtained from the U.S. Army Corps of Engineers prior to any work. Any conditions of the Corps Permit shall be considered conditions of this shoreline permit. Erosion controls and Best Management Practices (BMP's) shall be implemented and maintained to prevent uncontrolled discharge of water, petroleum products, soil, and other deleterious materials from entering adjacent surface waters.
15. Issuance of this Shoreline Substantial Development Permit does not grant the right to trespass upon private property. Legal easements or legal condemnation procedures will be required for portions of the pipeline placement and pipeline construction that occur on private property within or adjacent to right-of-way areas.
16. All manmade debris from the project within the construction zone shall be removed and disposed of at a location licensed for such disposal.
17. Prior to the issuance of any building permit for residential construction on Lot one, the existing block bulkhead shall be removed and the impacted area along the bulkhead alignment be recontoured and revegetated to provide a natural gradient to the Ordinary High Water Line of Lake Washington (21.85 MSL).
18. Approval of this subject SSDP does not authorize the applicant to utilize or otherwise trespass on property not owned by the applicant.

NOTE: This decision may be appealed to the State Shoreline Hearings Board. Information on appeal procedures may be obtained from the Shoreline Hearings Board at 360-459-6327 or the Washington State Department of Ecology Shoreline Appeals Coordinator at 360-407-6528. Requests for review by the Hearings Board must be received by the Shoreline Hearings Board within twenty-one (21) days of the "date of filing." The "date receipt" is the date the applicant receives the Department of Ecology's permit action letter.


Jarrod M. Lewis, Supervisor
Planning and Customer Service Section
Building and Fire Services Division

Transmittal Date: April 26, 2011

Transmitted to the following Parties and Persons of Interest: See Exhibit One
Attachment A: KCC 25.16.180
Attachment B: Letter regarding SAO Vesting

EXHIBIT ONE

TRANSMITTED TO THE FOLLOWING PARTIES OF RECORD FOR L10SH004:

CARLSON JOANNE ASII
ERS LUSD MS: OAK-DE-0100

CARSON BRENT GORDONDERR LLP
2025 FIRST AVE STE 500 SEATTLE WA 98121

CHEATUM TIM ENGR
ERS LUSD MS: OAK-DE-0100

CLAUSSEN KIM PPMIII
PCSS BFSI MS: OAK-DE-0100

DR STRONG CONSULTING ENGRS INC
10604 NE 38TH PL #101 KIRKLAND WA 98033

DYE PETE SR ENGR
ERS LUSD MS: OAK-DE-0100

GUNDERSON ROBERT W
8075 JUANITA DR NE KIRKLAND WA 98034

HILL WAYNE & DEBORAH
8187 N JUANITA DR KIRKLAND WA 98034

HOSSEIN MOHAJER
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JOHNSON MOLLY SUPERVISING DEV ENGR
ERS LUIS LUSD MS: OAK-DE-0100

LEWIS JARROD SUPRVISOR
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2025 FIRST AVE STE 500 SEATTLE WA 98121-3140

MITCHELL MARK PPMIII
PCSS BFSI MS: OAK-DE-0100

MOE PETER & BARBARA
10910 81ST PL NE KIRKLAND WA 98034

SHARAM FAMILY TRUST REZA SABOUR-MOHAJER
P.O. BOX 2401 KIRKLAND WA 98083

SIMMONS PAT ENGR/SURVEY
ERS LUSD MS: OAK-DE-0100

YASMOOTHR THAM ASII
ERS LUSD MS: OAK-DE-0100

E. Alterations in a landslide hazard area located on a slope less than forty percent are allowed if:

1. The proposed alteration will not decrease slope stability on contiguous properties; and
2. The risk of property damage or injury resulting from landsliding is eliminated or minimized. (Ord. 15051 § 167, 2004; Ord. 12822 § 9, 1997; Ord. 10870 § 475, 1993).

21A.24.290 Seismic hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing seismic hazard areas:

- A. The department may approve alterations to seismic hazard areas only if:
1. The evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or
 2. The applicant implements appropriate engineering design based on the best available engineering and geological practices that either eliminates or minimizes the risk of structural damage or injury resulting from seismically induced settlement or soil liquefaction; and
- B. The department may waive or reduce engineering study and design requirements for alterations in seismic hazard areas for:
1. Mobile homes;
 2. Additions or alterations that do not increase occupancy or significantly affect the risk of structural damage or injury; and
 3. One story buildings with less than two-thousand-five hundreds square feet of floor area or roof area, whichever is greater, and that are not dwelling units or used as places of employment or public assembly. (Ord. 16267 § 47, 2008; Ord. 15051 § 168, 2004; Ord. 10870 § 476, 1993).

21A.24.300 Volcanic hazard areas — development standards and alterations. The following development standards apply to development proposal and alterations on sites containing volcanic hazard areas:

- A. Within volcanic hazard areas located along the White river upstream from Mud Mountain dam:
1. Critical facilities, apartments, townhouses or commercial structures are not allowed;
 2. All new lots created by subdivision, short subdivision or binding site plan shall designate building areas and building setbacks outside of the volcanic hazard area; and
 3. The notice of critical areas required under this chapter is required for new single detached dwellings on existing lots;
- B. Within volcanic hazard areas located along the White river downstream from Mud Mountain dam and the Green and Duwamish rivers, the department shall evaluate development proposals for critical facilities for risk of inundation or flooding resulting from mudflows originating on Mount Rainier. The applicant shall design critical facilities to withstand, without damage, the effects of mudflows equal in magnitude to the prehistoric Electron mudflow; and
- C. This section does not apply until King County has completed the required modeling and mapping of volcanic hazard areas. (Ord. 15051 § 169, 2004; Ord. 10870 § 477, 1993).

21A.24.310 Steep slope hazard areas — development standards and alterations. The following development standards apply to development proposals and alterations on sites containing steep slope hazard areas:

- A. Except as provided in subsection D. of this section, unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations identified in K.C.C. 21A.24.045 are allowed within a steep slope hazard area;
- B. A buffer is required from all edges of the steep slope hazard area. To eliminate or minimize the risk of property damage or injury resulting from slope instability, landsliding or erosion caused in whole or part by the development, the department shall determine the size of the buffer based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the department, the minimum buffer is fifty feet. For building permits for single detached dwelling units only, the department may waive the special study requirement and authorize buffer reductions if the department determines that the reduction will adequately protect the proposed development and the critical area; and
- C. Unless otherwise provided in K.C.C. 21A.24.045 or as a necessary part of an allowed alteration, removal of any vegetation from a steep slope hazard area or buffer is prohibited;

(King County 12-2010)

D. All alterations are allowed in the following circumstance:

1. Slopes which are forty percent or steeper with a vertical elevation change of up to twenty feet if no adverse impact will result from the exemption based on King County's review of and concurrence with a soils report prepared by a geologist or geotechnical engineer; and
2. The approved regrading of any slope which was created through previous legal grading activities. Any slope which remains forty percent or steeper following site development shall be subject to all requirements for steep slopes. (Ord. 15051 § 170, 2004; Ord. 13190 § 21, 1998; Ord. 11621 § 77, 1994; Ord. 11273 § 5, 1994; Ord. 10870 § 478, 1993).

21A.24.311 Critical aquifer recharge areas — map adopted. The map entitled King County Critical Aquifer Recharge Areas, included in Attachment A to Ordinance 16267*, is hereby adopted as the designation of critical aquifer recharge areas in King County in accordance with RCW 36.70A.170. (Ord. 16267 § 48, 2008; Ord. 15051 § 172, 2004; Ord. 11481 § 2, 1994. Formerly K.C.C. 20.70.020).

*Available in the office of the clerk of the council

21A.24.312 Critical aquifer recharge areas — reclassification or declassification. Upon application supported by a critical areas report that includes a hydrogeologic site evaluation, the department, in consultation with the department of natural resources and parks, may determine that an area that is or is not classified as a critical aquifer recharge area on the map adopted under K.C.C. 21A.24.311:

- A. Does not meet the criteria for a critical aquifer recharge area and declassify that area if it is classified as a critical aquifer recharge area;
- B. Has the wrong critical aquifer recharge area classification and determine the correct classification; or
- C. Has not been classified as a critical aquifer recharge area and should be so classified based on the standards of K.C.C. 21A.24.313. (Ord. 16267 § 49, 2008; Ord. 15051 § 173, 2004).

21A.24.313 Critical aquifer recharge areas — categories. Critical aquifer recharge areas are categorized as follows:

A. Category I critical aquifer recharge areas include those mapped areas that King County has determined are:

1. Highly susceptible to groundwater contamination and that are located within a sole source aquifer or a wellhead protection area; or
2. In an area where hydrogeologic mapping or a numerical flow transport model in a Washington department of health approved wellhead protection plan demonstrate that the area is within the one year time of travel to a wellhead for a Group A water system;

B. Category II critical aquifer recharge areas include those mapped areas that King County has determined:

1. Have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or
2. Are highly susceptible to groundwater contamination and are not located in a sole source aquifer or wellhead protection area; and

C. Category III critical aquifer recharge areas include those mapped areas that King County has determined have low susceptibility to groundwater contamination and are located over an aquifer underlying an island that is surrounded by saltwater. (Ord. 16267 § 50, 2008; Ord. 15051 § 174, 2004).

21A.24.314 Critical aquifer recharge areas — King County Code provisions adopted — Washington state underground tank provisions implemented. To protect critical aquifer recharge areas, in accordance with chapter 36.70A RCW, the following provisions of the King County Code are determined to protect critical aquifer recharge areas: K.C.C. chapters 9.04, 9.12, 16.82, 21A.06, 21A.16, 21A.22 and 21A.24 and K.C.C. 17.04.010. For the purposes of RCW 90.76.040, King County declares critical aquifer recharge areas to be environmentally sensitive areas. (Ord. 16852 § 2, 2010; Ord. 15051 § 176, 2004; Ord. 11481 §§ 3, 5, 1994. Formerly K.C.C. 20.70.030).

(King County 12-2010)

**Johns Monroe
Mitsunaga Koloušková**
PLLC

TRANSMITTAL MEMORANDUM

Date: July 15, 2011

To: City of Kirkland
Office of the Hearing Examiner
Kirkland City Hall
123 Fifth Avenue
Kirkland WA 98033

Attn: Nancy Cox

Re: Cause No. DDES Permit L10SH004
Peter and Barbara Moe vs. King County DDES and Reza Mouhajer Sabour

Enclosure(s) NOTICE OF SUBSTITUTION OF COUNSEL
for Filing: NOTICE OF UNAVAILABILITY OF COUNSEL

Hello Nancy.

This matter has recently been transferred to the City of Kirkland from the Hearing Examiner for King County. Please file the originals of the above and return the enclosed front-page copies, date stamped, in the self-addressed stamped envelope provided.

Thank you kindly.

JOHNS MONROE MITSUNAGA KOLOUŠKOVÁ PLLC



Evanna L. Charlot
Legal Assistant for Darrell S. Mitsunaga

OFFICE OF THE HEARING EXAMINER FOR THE CITY OF KIRKLAND

PETER AND BARBARA MOE,

Petitioners,

vs.

KING COUNTY DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL
SERVICES; and REZA MOUHAJER
SABOUR,

Respondents

**NOTICE OF SUBSTITUTION OF
COUNSEL**

King County Hearing Examiner
DDES Permit Matter L10SH004

TO: The Office of the Hearing Examiner, City of Kirkland;

AND TO: Petitioners Peter and Barbara Moe, and Brent Carson and H. Ray Liaw,
their Counsel of Record;

AND TO: King County DDES, and Jennifer Stacy, Darren Carnell and Devon Shannon,
its Counsel of Record;

PLEASE TAKE NOTICE that Darrell S. Mitsunaga and the law firm of Johns
Monroe Mitsunaga Koloušková, PLLC hereby substitutes as attorneys of record replacing
Charles E. Watts and the law firm of Oserhan Hahn Spring Straight & Watts PS for
respondent Reza Mouhajer Sabour, effective July 14, 2011. All future pleadings and/or
papers, exclusive of original process, are to be served on Johns Monroe Mitsunaga
Koloušková, PLLC on behalf of Respondent Sabour at the address below.

DATED this 14th day of July, 2011.

JOHNS MONROE MITSUNAGA
KOLOUŠKOVÁ, PLLC

By 

Darrell S. Mitsunaga, WSBA12992
Attorneys for Respondent
Reza Mouhajer Sabour

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COPY

OFFICE OF THE HEARING EXAMINER FOR THE CITY OF KIRKLAND

PETER AND BARBARA MOE,

Petitioners,

vs.

KING COUNTY DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL
SERVICES; and REZA MOUHAJER
SABOUR,

Respondents

NOTICE OF UNAVAILABILITY OF
COUNSEL

King County Hearing Examiner
DDES Permit Matter L10SH004

TO: City of Kirkland Hearing Examiner;

AND TO: Petitioners Peter and Barbara Moe, and Brent Carson and H. Ray Liaw,
their Counsel of Record;


AND TO: King County DDES, and Jennifer Stacy, Darren Carnell and Devon Shannon,
its Counsel of Record;

PLEASE TAKE NOTICE that Darrell S. Mitsunaga, Attorney for Reza Mouhajer Sabour, will be unavailable from Monday, July 18, 2011, until Monday, July 25, 2011; from Thursday August 4, 2011, until Monday August 8, 2011; and from Monday August 22, 2011, to Monday August 29, 2011. It is respectfully requested that no action be scheduled or taken during these periods of time.

DATED this 14th day of July, 2011.

JOHNS MONROE MITSUNAGA
KOLOUŠKOVÁ, PLLC

By


Darrell S. Mitsunaga, WSBA12992
Attorneys for Respondent
Reza Mouhajer Sabour

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